

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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R.R. and D.R. on behalf of M.R.,

Plaintiff,

v.

SCARSDALE UFSD,

Defendants.  
-----x

**BARBARA S. JONES**  
**UNITED STATES DISTRICT JUDGE**

**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:**  
**DATE FILED:** 8/7/08

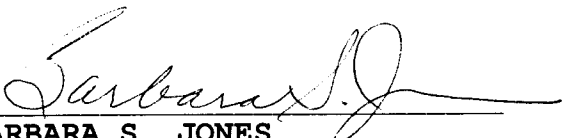
08 Civ. 0247 (BSJ)

**Order**

The Court has received correspondence from counsel for Plaintiffs-Appellants in the above-referenced matter, requesting that the Court make a threshold ruling on the propriety of Defendant's motion papers based on the belief that Defendant has "improperly injected impermissible material into the reviewable record without authorization" including a Local Rule 56.1 Statement and an Affidavit of Dr. Michael Mendelson. Defendant's counsel has also requested a "threshold determination" and that the Court consider directing Plaintiffs' counsel to "resubmit papers that comport with Rule 56 of the Federal Rules of Civil Procedure." Specifically, Defendant points to the fact that Plaintiffs did not submit a Rule 56.1 Statement and that the affidavit that was submitted by Plaintiffs was not made on personal knowledge, as well as the appropriateness of attaching news articles to the motion.

However, the Court finds that there is no need for such a "threshold determination." Consideration of the motion before the Court in this case, including consideration of the above-described issues if relevant, shall be made by the Court based on the submissions that have been made, applying the appropriate standards. No initial ruling or further submissions by the parties is necessary at this time and the pending motion remains sub judice.

**SO ORDERED:**

  
**BARBARA S. JONES**  
**UNITED STATES DISTRICT JUDGE**

Dated: New York, New York  
August 7, 2008